

WILLIAM B. CAREY, 8212160  
Attorney for Defendant  
CARLOS L. RAINEY  
1502 West 34th Avenue  
Anchorage, Alaska 99503

Telephone: (907) 272-4255  
Facsimile: (907) 272-4256

IN THE UNITED STATES DISTRICT COURT

DISTRICT OF ALASKA

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	
CARLOS L. RAINEY,	)	
	)	Case No. A05-008 (JWS)
Defendant.	)	

**AFFIDAVIT OF COUNSEL**

STATE OF ALASKA )  
:ss  
THIRD JUDICIAL DISTRICT )

I, WILLIAM B. CAREY, being first duly sworn, do freely and voluntarily state as follows:

1. I am the CJA appointed counsel for Carlos L, Rainey, Defendant herein.
2. The factual statements contained in Notice and Motion For Appointment Of Additional CJA Counsel For Limited Purposes are true and correct.
3. I have been discussing this situation over the past couple of days with my client as well as with D. Scott Dattan, attorney for Shannon Rainey and Stephan Collins, Assistant U.S. Attorney. Both counsel were advised yesterday that Mr. Rainey has not made up his mind as to whether he will assert the 5<sup>th</sup> Amendment and

not testify at his wife's trial. I don't believe there is any disagreement as to whether the protections of the 5<sup>th</sup> Amendment would be available to Mr. Rainey under these circumstances, given the nature of the testimony that may be elicited at trial. Mr. Dattan has indicated that, most likely, Mr. Rainey's testimony would be needed on Wednesday or Thursday, August 30 or 31.

4. I have numerous matters set on the monthly Petersburg State Court calendar beginning August 28. It is customary for me to travel to Petersburg (and usually Wrangell) on the fourth week of each month when the monthly court calendar is held in that community. In addition to my scheduled hearings, I also hold regular office hours during that week in which I attend to a variety of other legal matters and clients. I have been practicing regularly in Petersburg for more than 20 years.

5. I also have an important evidentiary hearing in a felony matter in Juneau before Judge Weeks on Thursday, August 31. This matter has already been continued once at my request (and for my convenience), and I'd rather not have to ask for it to be moved again. I am scheduled to return to Anchorage that night.

6. Mr. Rainey is going to need counsel available to him next week. He has a very serious decision to make with respect to his testimony and, in the event that he does decide to testify, he will need professional guidance regarding this situation. The stakes for both his wife and himself are high.

7. I am sure that I could make myself available to consult telephonically with Mr. Rainey during this time, but my principal form of communication with my office and the rest of the world while I am in Southeast is on my cell phone. It may be problematic for Mr. Rainey to call me from the Federal Building or elsewhere while in Federal custody in Anchorage for the purpose of discussing these matters.

8. This morning I discussed this situation with Federal Defender Rich Curtner and we essentially agreed that the filing of this notice and motion was the appropriate way to go. It is my understanding that another temporarily appointed CJA counsel could possibly be found, briefed by myself regarding the issues involved in this matter and be available to help out in plenty of time for Mr. Rainey's tentative appearance.

FURTHER YOUR AFFIANT SAITH NAUGHT.

DATED this 23<sup>rd</sup> day of August, 2006.

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William B. Carey, Affiant

STATE OF ALASKA                     )  
  :ss  
THIRD JUDICIAL DISTRICT        )

THIS IS TO CERTIFY that on this 23<sup>rd</sup> day of August, 2006, before me, the undersigned, a Notary Public in and for the State of Alaska, personally appeared WILLIAM B. CAREY, known to me and to me known to be the individual named in and who executed the foregoing document and he acknowledged to me that he signed and sealed the same as his free and voluntary act for the uses and purposes therein set forth.

WITNESS my hand and notarial seal the day and year first hereinabove written.

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Notary Public in and for Alaska  
My Commission expires: 27 July 2009

### **CERTIFICATE OF SERVICE**

I hereby certify that on this 23<sup>rd</sup> day of August, 2006, a copy of the forgoing Notice and Motion was electronically served on the following:

Stephan Collins  
Federal Public Defender  
D. Scott Dattan

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